

McDERMOTT, WILL & EMERY

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

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April 5, 1988

LOUIS M. RUNDIO, JR.
312/984-7710

Ms. Susan Swales 5HE-12
U.S. EPA - Region V
Waste Management Division
CERCLA Enforcement Section
230 South Dearborn Street
Chicago, Illinois 60604

Dear Ms. Swales:

On behalf of Hendrickson Manufacturing (hereinafter referred to as the "company"), I am responding to the recent letter sent by Mary Gade regarding the Ninth Avenue Site, Gary Indiana and the U.S. Scrap Site, Chicago, Illinois. This response is made without any acknowledgment that the company is a "responsible party" under CERCLA; without any admission of any liability or responsibility under CERCLA or any other statute; and without acknowledgment of the applicability of the authorities referenced in the letter. Furthermore, the company does not admit or agree that any activities which have been, are now, or will be conducted at the Ninth Avenue Site or U.S. Scrap Site by the U.S. EPA or its representatives are warranted or are authorized under CERCLA or any other authority.

The company would like to note that until its receipt of Ms. Gade's letter, it was unaware that U.S. EPA considered it to be a potentially responsible party for the Ninth Avenue Site or the U.S. Scrap Site.

The company hereby informs U.S. EPA that it is willing to enter into negotiations regarding the company's proportionate financial participation in reimbursement of response costs and in conducting further response activities at the sites, subject to verification that the company is, in fact, a responsible party. The company will endeavor along

U.S. EPA REGION V
WASTE MANAGEMENT DIVISION
OFFICE OF THE DIRECTOR

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Ms. Susan Swales
April 5, 1988
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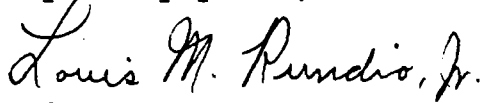
with potentially responsible parties, to prepare proposals regarding these matters and negotiate with U.S. EPA about them.

The company has begun to search for information and documents responsive to the request for information and will respond before the end of the month. In order to make the response complete please send to me immediately all information which forms the basis for notifying the company that it may be a potentially responsible party. This information is being requested formally under the Freedom of Information Act, but U.S. EPA's failure to voluntarily supply it immediately will delay a complete response to its request for information.

With these caveats the company requests U.S. EPA contact it to discuss settlement of the company's alleged liabilities. Note that the company believes if it has any liability, the company will fall within the requirements of § 122(g)(1)(A) for a de minimis settlement. Since U.S. EPA is required to, as promptly as possible, reach a final settlement with the company under this provision, the company believes that this matter needs to be addressed immediately. Please send a draft of a settlement agreement and the amount demanded for a de minimis settlement and the company will promptly respond.

Further contact about this matter should be made with Louis M. Rundio, Jr., McDermott, Will & Emery, 111 West Monroe, Chicago, Illinois 60603, (312) 372-2000.

Very truly yours,


Louis M. Rundio, Jr.

LMR/aml

[illegible]

Ms. Susan Swales 5HE-12
U.S. EPA - Region V
Waste Management Division
CERCLA Enforcement Section
230 South Dearborn Street
Chicago, IL 60604



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|--|--------------------|-----|---|
| FROM MCDERMOTT, WILL & EMERY (9TH AVE & US SCRAP/HENDRICKSON) | | | CONTROL NO. RIN 1077-88 |
| SUBJECT AND DATE FREEDOM OF INFORMATION | | | DATE REC'D 4-20-88 |
| | | | DUE DATE 5-4-88 |
| REFERRED (1) SUPERFUND | (2) <i>Elam</i> | (3) | (4) |
| DATE 4-20-88 | | | |
| REPLY SENT TO If fee is charged, copy to FMR | | | DATE RELEASED |
| REMARKS Signature: Division Director or Branch Chief DD or RA (Denial) ORC Concurrence Required Copy to: Public Affairs | | | ACKNOWLEDGED - DATE <input type="checkbox"/> |
| | | | NO ANSWER NEEDED <input type="checkbox"/> (Explain in remarks) |

EPA Form 5180-1 (6-72)
REPLACES FWPCA FORM 72 AND
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